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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,793 \*

12/13/2004

Gregor John McLennan Anderson

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09/14/2006

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EXAMINER

KUMAR, RAKESH

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/517,793	ANDERSON, GREGOR JOHN MCLENNAN	
	Examiner	Art Unit	
	Rakesh Kumar	3654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 14-17 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) 11-13, 18 and 19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-30 is/are allowed.
- 6) ☒ Claim(s) 1-10, 14-17 and 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Final Rejection**

Claims 11-13, 18 and 19 cancelled by the Applicant per amendment filed 06/30/2006.

Claims 1-10, 14-17 and 20-30 are pending in this Office Action as follows.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies et al. (U.S. Patent Number 5,860,419) in view of O'Connor (U.S. Patent Number 6,029,659) and further in view of Dessertine (U.S. Patent Number 5,020,527)

Referring to claims 1 and 20-25. Davies discloses a medicament dispenser (Figure 16) for use with a medicament carrier (401) having multiple distinct medicament doses (402) carried thereby, said dispenser (Figure 16) having an internal mechanism for dispensing the distinct medicament doses (402) carried by said medicament carrier (401), said mechanism comprising,

- a) receiving means (see housing holding member 401; Figure 14) for receiving the medicament carrier (401);
- b) release means (members 414 and 470) for releasing a distinct medicament dose (402) from the medicament carrier (401) on receipt thereof by said receiving means (401);
- c) an outlet (419), positioned to be in communication (see Figure 14) with the medicament dose (402) releasable by said release means (members 414 and 470);
- d) indexing means (482; Figure 14) for individually indexing the distinct medicament doses (402) of the medicament carrier (401); and
- e) counting means (including 370; Figure 12, Col. 6 line 58 and 489, Figure 16a) for counting each time a distinct medicament dose (402) of the medicament carrier (401) is indexed by said indexing means (482),

Davies does not disclose the counting means as a distinct electronic counter unit that is detachable from the medicament dispenser.

O'Connor discloses a medicament dispenser (Figure 4b) wherein a digital electronic counting means (40 ; Figure 5 and 6) disposed on the housing (15) is provided as a distinct electronic counter unit that is mounted onto the medicament dispenser.

Dessertine discloses an inhaler device with a counter/timer means (Figure 3 and 4) wherein the electronic dose counter unit (49) is detachable from the medicament dispenser (2; Col. 3 line 47-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Davies to include an electronic counting means operated by the action of dispensing the medicaments from the dispenser as taught by O'Connor, because the electronic counting means would provide a better viewable display.

It would have been further obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Davies to include an electronic dose counter unit (49; Dessertine) that is detachable from the medicament dispenser unit as taught by Dessertine because the electronic dose counter unit could be saved and used in a replacement dispenser thus reducing cost for the apparatus.

Claims 2-8,14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies in view of O'Connor and Dessertine as applied to claim 1 above, and further in view of Lee (U.S.Patent Number 5,990,782).

Referring to claims 2,14 and 15. Davies discloses a medicament dispenser (Figure 16) wherein the dispenser has a window opening (494) disposed on the housing through which the numerals disposed on the indicia of member (489) are visible as the dosage are incrementally forwarded.

O'Connor discloses a medicament dispenser (Figure 4b) wherein an electronic counting means (40; Figure 5 and 6) is disposed on the housing to incrementally display the dosage quantity remaining in the dispenser.

Dessertine discloses an inhaler device with a counter/timer means (Figure 3 and 4) wherein the electronic dose counter unit (49) is detachable from the medicament dispenser (2; Col. 3 line 47-59).

Lee discloses a electronic display disposed on the cover of the pill dispenser with multiple programmable features. Furthermore, Lee discloses the electronic counter unit incorporating a push-button actuation features (see buttons Figure 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Davies to include an electronic dose counter unit (49; Dessertine) that is detachable from the medicament dispenser unit as taught by Dessertine because the electronic dose counter unit could be saved and used in a replacement dispenser thus reducing cost for the apparatus.

It would have been further obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Davies in view of O'Connor and Dessertine to include an electronic counter positioned on the housing and mechanically connected to the incrementing motion of the indexing means (482; Figure 14) as taught by Lee because placing the electronic counter directly on the housing would increase visibility of the display area.

Referring to claim 3. See claim 2. Davies discloses a medicament dispenser (Figure 16) wherein the housing (410; Figure 16a) is provided with a cover (491) and the electronic counter (see claim 2) is disposed next to the cover (491; also see Figure 12 member 370).

Referring to claim 4. Davies discloses a medicament dispenser (Figure 16) wherein said cover (491) is moveable relative to the housing (410; see Figures 16a-16d).

Referring to claims 5-7. Lee discloses the electronic counter unit (Figure 1) comprising a unit housing (see area in member 16 holding members 18 and 30; Figure 3), LCD display screen (18) and a cut-away protective viewing window provided in the unit housing (see two flange projection members above member 18 used to protect the LCD member; Figure 3).

Referring to claim 8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Davies in view of O'Connor, Dessertine (see Col. 3 line 47-59) and Lee to include a snap-fit mechanism for the electronic counter because it would reduce production assembly costs for the dispenser.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies in view of O'Connor, Dessertine as applied to claim 1 above, and further in view of Benaroya (U.S. Patent Number 4,572,403).

Referring to claim 9. Benaroya discloses a tablet dispensing apparatus (Figure 9) wherein the electronic counter unit (27) is in switching contact (79; Figure 9) with switching means (30; Figure 4) coupled to the indexing means (75a) such that an indexing action results in switching thereof to register a count at the electronic counter unit.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Davies in view of O'Connor and Dessertine to include a switching means in direct contact with the electronic counter unit as taught by Benaroya such that each consecutive motion the dosage pack can be registered on the electronic counter unit and provide an accurate indexing as the dosage is dispensed.

Referring to claim 10. Benaroya discloses the switching means (30) comprises a mechanical arm (79) protruding from the medicament dispenser.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies et al. in view of O'Connor and Dessertine as applied to claim 1 above, and further in view of Cutler (U.S. Patent Number 5,575,392).

Referring to claims 16 and 17. See claim 1 above. Cutler discloses a pill dispenser wherein a magnifier (27; Figure 2) positioned over the inscription of the calendar (15) is used to magnify the inscription to aid the user in reading the indicia.



Cutler discloses the manipulating means (27) to manipulate (magnify) an analogue count indicia (15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Davies in view of O'Connor and Dessertine to include a manipulating means as taught by Cutler to manipulate the analogue count indicia as disclosed above, thus improving visibility of the display.

It would have been further obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Davies in view of O'Connor, Dessertine and Cutler to include a analogue counting means that is detachable form the medicament dispenser because the analogue dose counter unit could be saved and used in a replacement dispenser thus reducing cost for the apparatus.

Referring to claims 26-30. Claims 26-30 allowed.

### ***Response to Arguments***

Applicant's arguments filed 06/30/2006 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-10,14-17 and 20-25 have been considered but are moot in view of the new ground(s) of rejection. See rejections above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RK  
March 26, 2006

A handwritten signature in black ink that reads "Kathy Matecki". The signature is written in a cursive, flowing style.

**KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600**